

By: Dutton

H.B. No. 495

A BILL TO BE ENTITLED

AN ACT

relating to competitive bids for water utilities contracts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 13, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. CONTRACTS

Sec. 13.551. CONTRACTS; BIDS. (a) Any contract made by a utility for work must conform to the provisions of this subchapter.

(b) The contract must contain, incorporate by reference, or have attached to it the specifications, plans, and details for work included in the contract. All work must be done in accordance with these specifications, plans, and details and any authorized change orders under the supervision of the utility or its designee.

(c) The utility may adopt minimum criteria for the qualifications of bidders on its contracts and for sureties issuing payment and performance bonds. For contracts over \$50,000, the utility shall require a person who bids to submit a certified or cashier's check on a responsible bank in the state equal to at least two percent of the total amount of the bid, or a bid bond of at least two percent of the total amount of the bid issued by a surety legally authorized to do business in this state, as a good faith deposit to ensure execution of the contract. Notwithstanding any criteria adopted under this subsection, for a contract for more than \$250,000, the utility shall accept a bid bond in the amount

1 required by the utility as a bid deposit if the bid bond meets the
2 other requirements of this subsection. If the successful bidder
3 fails or refuses to enter into a proper contract with the utility,
4 or fails or refuses to furnish the payment and performance bonds
5 required by law, the bidder forfeits the deposit. The payment,
6 performance, and bid bonding requirements of this subsection do not
7 apply to a contract for the purchase of equipment, materials, or
8 machinery not otherwise incorporated into a construction project.

9 (d) This section does not apply to a utility that, under
10 Subchapter K, is under receivership or temporary management.

11 SECTION 2. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2011.